



**UNITED STATES DEPARTMENT OF COMMERCE**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/241,744

02/01/99

EINARSON

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PSI-801

MMC1/0612

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EXAMINER

POLITZER, J

ART UNIT

PAPER NUMBER

2856

13

DATE MAILED:

06/12/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/24,744

Applicant(s)

EINARSON et al

Examiner

POLTZER

Group Art Unit

2856

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☒ Responsive to communication(s) filed on 2/1/99
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-25 is/are pending in the application.
- Of the above claim(s) 7-15 + 21-25 is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-6 + 16-20 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Pri rity under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4
- ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

Serial Number: 09/241,744  
Art Unit: 2856

Title: Multi-Level Monitoring Well  
Filed: 2/1/99  
Inventor(s): Einarson et al  
Attorney(s): MacKenzie

### ***DETAILED ACTION***

#### **REJECTIONS UNDER 35 U.S.C. § 112:**

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 17-18 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. For example:

Regarding Claims 17-18; there is lack of antecedent basis for "generally cylindrical member".

#### **REJECTIONS OVER PRIOR ART UNDER 35 U.S.C. § 102:**

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

"A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States."

4. Claims 1-2, 4-6, 16 and 20 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Harris.

Regarding Claims 1-2, 4, 6, 16 and 20; see abstract, Figs 1-3, and Col 2, Li 65-68.

Regarding Claim 5; see Col 5, Li 1-2.

**REJECTIONS OVER PRIOR ART UNDER 35 U.S.C. § 103:**

5. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

"A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person."

6. Claim 3 is rejected under 35 U.S.C. § 103 as being unpatentable over Harris.

Regarding Claim 3; at Col 2, Li 51-52 Harris chooses section lengths "for ease of handling". It is obvious that one can choose a single length that is adequate for the purpose and thus, avoid joints.

7. Claim 19 is rejected under 35 U.S.C. § 103 as being unpatentable over Harris as applied to claim 16, above, in view of Stites et al, hereinafter Stites.

Regarding Claim 19; Harris fails to teach driving a hole. Stites drives a hole in the introduction. It would have been obvious to one of ordinary skill in the

Serial Number: 09/241,744  
Art Unit: 2856

art at the time of the invention to form a hole by driving since, for small wells, no power equipment is needed.

**DESCRIPTION OF UNAPPLIED ART:**

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure because it teaches other multi-level monitoring inventions.

**INQUIRIES:**

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Jay L. Politzer whose telephone number is (703) 305-4930 and whose direct facsimile number is (703) 746-4427.
10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Hezron E. Williams, can be reached at (703) 305-4705.
11. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-4900.

jlp 6/7/01

*Jay L. Politzer*